

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ANGELA PROUT,

Plaintiff,

Civil Action No.
21-CV-4029

v.

PEDRAM BRAL, M.D., RAJAN S. GUPTA, M.D.,
and MAIMONIDES MEDICAL CENTER,

NOTICE OF REMOVAL

Defendants.

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK:

PLEASE TAKE NOTICE that an action pending in the Supreme Court of the State of New York, County of Kings, has been removed to the United States District Court for the Eastern District of New York.

Jacquelyn M. Kasulis, Acting United States Attorney for the Eastern District of New York, by Kevin Yim, Assistant United States Attorney, of counsel, respectfully states the following facts upon information and belief:

1. The above-captioned action was commenced in the Supreme Court of the State of New York, County of Kings, Index Number 514199/2020, and names as defendants PEDRAM BRAL, M.D., RAJAN S. GUPTA, M.D., and MAIMONIDES MEDICAL CENTER. *See* Summons and Verified Complaint dated August 5, 2020, annexed hereto as Exhibit A.

2. On or about October 2, 2020, defendant MAIMONIDES MEDICAL CENTER filed a Verified Answer of defendant Maimonides Medical Center in the Supreme Court of the State of New York. *See* Verified Answer of Maimonides, annexed hereto as Exhibit B.

3. On or about October 2, 2020, defendant PEDRAM BRAL, M.D., filed a Verified Answer of Defendant Pedram Bral, M.D. in the Supreme Court of the State of New York. *See* Verified Answer of Bral, annexed hereto as Exhibit C.

4. Upon information and belief, defendant RAJAN S. GUPTA, M.D. has not responded to the Verified Complaint in the Supreme Court of the State of New York. *See* Docket Sheet, annexed hereto as Exhibit D.

5. This action alleges medical malpractice on the part of the defendants. Specifically, the Verified Complaint alleges that on or about February 2, 2018 to on or about June 22, 2018, defendants were negligent in the administration of proper medical care. *See generally* Exhibit A, Verified Complaint.

6. At all relevant times articulated in the Verified Complaint, L'Refuah Medical and Rehabilitation Center ("Health Center") was a federally supported health center and deemed by the U.S. Department of Health and Human Services, pursuant to the Federally Supported Health Centers Assistance Act, 42 U.S.C. § 233(g)-(n), ("FSHCAA"), eligible for coverage under the Federal Tort Claims act. *See* Declaration of Meredith Torres, annexed hereto as Exhibit E.

7. At all relevant times articulated in the Verified Complaint, defendant PEDRAM BRAL, M.D., was an employee of the Health Center, and was acting within the course and scope of such deemed federal employment with the United States of America, and therefore deemed eligible for coverage under the Federal Tort Claims Act. *See* Exhibit E.

8. At all relevant times articulated in the Verified Complaint, defendant PEDRAM BRAL, M.D., as an employee of the Health Center, was deemed pursuant to 42 U.S.C. § 233(g)-(h), eligible for coverage under the Federal Tort Claims Act, and was acting within

the scope and course of such deemed employment with the United States of America. *See* Certification and Scope of Employment and Notice of Substitution of the United States of America by Assistant U.S. Attorney Kevin Yim, dated July 16, 2021, attached hereto as Exhibit F.

9. Pursuant to 42 U.S.C. § 233(c), this action may be removed to this Court because the Verified Complaint purports to assert claims against the United States of America, by way of defendant PEDRAM BRAL, M.D. and the Health Center, and purports to raise matters under federal law.

10. Pursuant to 42 U.S.C. § 233(c), 28 C.F.R. § 15.4, and the Certification of the Scope of Employment, the United States of America is substituted as the party defendant for defendant PEDRAM BRAL, M.D. *See* Exhibit F, Certification of Scope of Employment.

11. The United States Attorney's Office has not yet been served with the Summons and Verified Complaint in this action.

12. In accordance with 28 U.S.C. § 1446(d), the filing of a copy of this Notice with the Clerk of the Court, Supreme Court of the State of New York, County of Kings, shall effect the removal and the local court shall proceed no further with respect to the action, unless and until the case is remanded.

WHEREFORE, it is respectfully requested that the above-captioned action that is pending in the Supreme Court of the State of New York, County of Kings, be removed to this Court.

Dated: Brooklyn, New York
July 16, 2021

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